

The Gazette of India

PUBLISHED BY AUTHORITY

NEW DELHI, SATURDAY, NOVEMBER 23, 1946

 Separate paging is given to this Part in order that it may be filed as a separate compilation

PART V

Bills introduced in the Council of State and Legislative Assembly, Reports of Select Committees presented to the Council and Assembly and Bills published under Rule 18 of the Indian Legislative Rules.

GOVERNMENT OF INDIA

LEGISLATIVE ASSEMBLY DEPARTMENT

The following Report of the Select Committee on the Bill to provide for the continuance of certain emergency powers in relation to requisitioned land, was presented to the Legislative Assembly on the 15th November, 1946:—

We, the undersigned, members of the Select Committee to which the Bill was referred, have considered the Bill and the papers noted above, and have now the honour to submit this our Report, with the Bill as amended by us annexed thereto.

Where acquisition of land is required for the purposes mentioned in paragraph (c) of sub-clause (3) of clause 5 of the Bill, we consider that the procedure for acquisition provided in the ordinary law will suffice, and accordingly we propose the omission of this paragraph.

Clause 6 of the Bill (which deals with the question of compensation) imports the provisions of section 19 of the Defence of India Act, 1939, *including* the proviso to clause (c) of sub-section (1) of that section. The effect of this proviso is to require the arbitrator assessing compensation for the acquisition of already requisitioned land to have regard to the market-value of the land at the time of its original requisition under the Defence of India Rules and not to such value at the time of its subsequent acquisition. The market-value of land has substantially increased since the dates when many of these requisitions were made, and we consider it inequitable in principle that compensation for acquisition today should be based on the lower values prevailing at the time of requisition. We propose therefore that in attracting the provisions of the above-mentioned section 19, clause 6 of the Bill should further modify those provisions by omitting this proviso, thus securing that the award of compensation for acquisition will be based on the market-value at the date of the publication of the notice under clause 5 of the Bill. Sub-clause (a) of clause 6 has been recast accordingly.

2. The Bill was published in the *Gazette of India*, Part V, dated the 9th November 1946.

3. We think that the Bill has not been so altered as to require re-publication, and we recommend that it be passed as now amended.

*J. N. MANDAL.
 *G. S. BHALJA.
 *B. K. GOKHALE.
 P. J. GRIFFITHS.
 AHMED E. H. JAFFER.
 HAFIZ M. GHAZANFARULLA
 MANU SUBEDAR.
 ABDUR RAHMAN SIDDIQI.
 G. V. DESHMUKH.
 THAKURDAS BHARGAVA
 *SASANKA SEKHAR SANYAL
 C. P. LAWSON.

NEW DELHI ;

The 15th November 1946.

Note

We sign the report subject to the reservation of the right of Government to move an amendment to clause 6 of the Bill, if deemed necessary,

J. N. MANDAL.
 G. S. BHALJA.
 B. K. GOKHALE.

The 15th November 1946

*Subject to a Note.

Note

I reserve my right to move such amendment as I consider necessary.

SASANKA SEKHAR SANYAL

The 15th November 1946

L. A. BILL NO. 59 OF 1946

[BILL AS AMENDED BY THE SELECT COMMITTEE]

(Words underlined and sidelined indicate the amendments suggested by the Committee; asterisks indicate omissions.)

A Bill to provide for the continuance of certain emergency powers in relation to requisitioned land.

WHEREAS it is expedient to provide, in relation to land which, when the Defence of India Act, 1939, XXXV of 1939 expired, was subject to any requisition effected under rules made under that Act, for the continuance of certain powers theretofore exercisable under the said Act or the said rules :

AND WHEREAS the Requisitioned Land (Continuance of Powers) Ordinance, 1946, provided for the continuance of such powers, as the Indian Legislature was not in session :

AND WHEREAS the Indian Legislature has been empowered by section 3 of the India (Central Government and Legislature) Act, 1946, to make laws with respect to the matters aforesaid ;

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 Geo. 6, c. 39

It is hereby enacted as follows :—

1. (1) This Act may be called the Requisitioned Land (Continuance of Powers) Act, 1946. Short title, extent and duration

(2) It extends to the whole of British India.

(3) It shall cease to have effect on the expiration of the period mentioned in section 4 of the India (Central Government and Legislature) Act, 1946, except as respects things done or omitted to be done before the expiration thereof, and section 6 of the General Clauses Act, 1897, shall apply upon the expiry of this Act as if it had then been repealed by a Central Act.

2. In this Act, unless there is anything repugnant in the subject or context,— Definitions

(1) “appropriate Government” means, in relation to any requisitioned land, the Central or Provincial Government by which or under the authority of which the land has been requisitioned;

(2) “Ordinance” means the Requisitioned Land XIX of 1946 (Continuance of Powers) Ordinance, 1946;

(3) “Provincial Government” means, in relation to a Chief Commissioner’s Province, the Chief Commissioner;

(4) “requisitioned land” means immovable property which at the commencement of this Act is subject to any requisition effected under the rules made under the Defence of India Act, 1939.

XXXV of 1939

XXXV of 1939

3. Notwithstanding the expiration of the Defence of India Act, 1939, and the rules made thereunder and the repeal of the Ordinance, all requisitioned lands shall continue to be subject to requisition until the expiry of this Act and the appropriate Government may use or deal with any requisitioned land in such manner as may appear to it to be expedient: Continuance of requisitions

Provided that the appropriate Government may at any time release from requisition any requisitioned land.

4. (1) Where any requisitioned land is to be released from requisition, the appropriate Government may, after making such inquiry, if any, as it considers necessary, specify by order in writing the person to whom possession of the land shall be given. Release from requisition

(2) The delivery of possession of the requisitioned land to the person specified in an order made under subsection (1) shall be a full discharge of the Government from all liability in respect of such delivery, but shall not prejudice any rights in respect of the land which any other person may be entitled by due process of law to enforce against the person to whom possession of the land is so delivered.

(3) Where the person to whom possession of any requisitioned land is to be given cannot be found and has no agent or other person empowered to accept delivery on his behalf, the appropriate Government shall cause a notice declaring that the land is released from requisition to be affixed on some conspicuous part of the land and publish the notice in the official Gazette.

(4) When a notice referred to in sub-section (3) is published in the official Gazette, the land specified in such notice shall cease to be subject to requisition on and from the date of such publication and be deemed to have been delivered to the person entitled to possession thereof; and the Government shall not be liable for any compensation or other claim in respect of the land for any period after the said date.

er to acquire
quisitioned land

5. (1) Subject to the provisions of sub-section (3), the appropriate Government may, at any time when any requisitioned land continues to be subject to requisition under section 3, acquire such land by publishing in the official Gazette a notice to the effect that such Government has decided to acquire such land in pursuance of this section.

(2) When a notice as aforesaid is published in the official Gazette, the requisitioned land, shall on and from the beginning of the day on which the notice is so published, vest absolutely in the appropriate Government free from all encumbrances and the period of requisition of such land shall end.

(3) No requisitioned land shall be acquired under this section except in the following circumstances, namely :—

(a) where any works have during the period of requisition been constructed on, in or over the land wholly or partly at the expense of Government and the appropriate Government decides that the value of, or the right to use, such works should be preserved or secured for the purposes of Government; or

(b) where the cost of restoring the land to its condition at the time of its requisition would, in the determination of the appropriate Government, be excessive having regard to the value of the land at that time.

* * * * *

(4) Any decision or determination of the appropriate Government under sub-section (3) shall be final, and shall not be called in question in any Court.

(5) For the purposes of clause (a) of sub-section (3) "works" includes buildings, structures and improvements of every description.

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6. Where under this Act or the Ordinance any requisitioned land is continued under requisition for a period and is thereafter released from requisition or is acquired, compensation for such continued requisition and, as the case may be, acquisition of the land shall be determined and paid in accordance with the provisions of section 19 of the Defence of India Act, 1939, and the rules made thereunder, and for the purposes of such determination and payment—

XXXV of
1939

(a) the said provisions and rules shall be deemed to be in force as if—

(i) the references therein to section 19A of the said Act were references to section 5 of this Act, and

(ii) the proviso to clause (c) of sub-section (1) of the said section 19 were omitted.

(b) all agreements and awards under section 19 of the Defence of India Act, 1939, in regard to the payment of compensation for the period of requisition before the expiry of that Act shall continue to be in force and shall apply to the payment of compensation for the period of requisition after such expiry.

7. (1) The appropriate Government may, with a Power to obtain view for carrying out the purposes of sections 3 to 6, information by order require any person to furnish to such authority as may be specified in the order such information in his possession relating to any requisitioned land as may be so specified

(2) If any person fails to furnish any information required by an order under sub-section (1), or furnishes any information which is false and which he either knows or has reasonable cause to believe to be false or does not believe to be true, he shall be punishable with imprisonment for a term which may extend to one year or with fine or with both.

8. The Central Government or any Provincial Government may, by order notified in the official Gazette, direct that any power conferred or any duty imposed on it by this Act shall, in such circumstances and under such conditions, if any, as may be specified in the direction, be exercised or discharged by such officer as may be so specified.

9. (1) No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done in pursuance of this Act or any order made thereunder. Protection of action taken under the Act

(2) No suit or other legal proceeding shall lie against the Crown for any damage caused or likely to be caused by anything in good faith done or intended to be done in pursuance of this Act or any order made thereunder.

10. The Requisitioned Land (Continuance of Powers) Ordinance, 1946, is hereby repealed; and anything done in exercise of any power conferred by or under the said Ordinance shall be deemed to have been done in exercise of powers conferred by or under this Act, as if this Act had commenced on the 1st day of October, 1946. Repeal of Ord. XIX of 1946

following Bill was introduced in the Legislative Assembly on the 18th day, 1946:—

L. A. BILL No. 63 OF 1946

A Bill for the more effective prevention of bribery and corruption

WHEREAS it is expedient to make more effective provision for the prevention of bribery and corruption;

It is hereby enacted as follows:—

1. (1) This Act may be called the Prevention of Corruption Act, 1946 Short title, extent and duration

(2) It extends to the whole of British India and it applies also to all British subjects and servants of the Crown in any part of India and to British subjects who are domiciled in any part of India wherever they may be.

(3) Section 5 shall remain in force for a period of three years from the commencement of this Act.

Interpreta-
tion

2. For the purposes of this Act, "public servant" means a public servant as defined in section 21 of the Indian Penal Code.

XLV of 1860

Offences
under
sections 161
and 165 of
the Penal
Code to be
cognizable
offences

3. An offence punishable under section 161 or section 165 of the Indian Penal Code shall be deemed to be a cognizable offence for the purposes of the Code of Criminal Procedure, 1898, notwithstanding anything to the contrary contained therein: XLV of 1860 V of 1898

Provided that a police officer below the rank of Deputy Superintendent of Police shall not investigate any such offence without the order of a Magistrate or make any arrest therefor without a warrant.

Presump-
tion
where
public
servant
accepts
gratifica-
tion other
than legal
remunera-
tion

4. Where in any trial of an offence punishable under section 161 or section 165 of the Indian Penal Code, it is proved that an accused person has accepted or obtained, or has agreed to accept or attempted to obtain, for himself or for any other person, any gratification (other than legal remuneration) or any valuable thing from any person, it shall be presumed unless the contrary is proved that he accepted or obtained, or agreed to accept or attempted to obtain, that gratification or that valuable thing, as the case may be, as a motive or reward such as is mentioned in the said section 161, or, as the case may be, without consideration or for a consideration which he knows to be inadequate: XLV of 1860

Provided that the Court may decline to draw such presumption if the gratification or thing aforesaid is in its opinion so trivial that no inference of corruption may fairly be drawn.

Criminal
misconduct
in discharge
of official
duty

5. (1) A public servant is said to commit the offence of criminal misconduct in the discharge of his duty if he habitually accepts or obtains or agrees to accept or attempts to obtain from any person for himself or for any other person, any gratification (other than legal remuneration) as a motive or reward such as is mentioned in section 161 of the Indian Penal Code, or any valuable thing without consideration or for a consideration which he knows to be inadequate, or if he dishonestly or fraudulently misappropriates or otherwise converts for his own use any property entrusted to him or under his control as a public servant or allows any other person so to do, or if he, by corrupt or illegal means or by otherwise abusing his position as a public servant, obtains for himself or any other person any valuable thing or pecuniary advantage. XLV of 18

(2) Any public servant who commits criminal misconduct in the discharge of his duty shall be punishable with imprisonment for a term which may extend to seven years, or with fine, or with both.

(3) In any trial of an offence punishable under sub-section (2) the fact that the accused person or any other person on his behalf is in possession, for which the accused person cannot satisfactorily account, of pecuniary resources or property disproportionate to his known sources of income may be proved, and on such proof the Court shall presume, unless the contrary is proved, that the accused person is guilty of criminal misconduct in the discharge of his official duty and his conviction therefor shall not be invalid by reason only that it is based solely on such presumption.

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(4) Notwithstanding anything contained in the Code of Criminal Procedure, 1898, a police officer below the rank of Deputy Superintendent of Police shall not investigate any offence punishable under sub-section (2) without the order of a Magistrate or make any arrest therefor without a warrant.

of 1860

6. No Court shall take cognizance of an offence punishable under section 161 or section 165 of the Indian Penal Code or under sub-section (2) of section 5 of this Act, alleged to have been committed by a public servant, except with the previous sanction, —

Previous
sanction
necessary
for
prosecution

(a) in the case of a person who is employed in connection with the affairs of the Federation and is not removable from his office save by or with the sanction of the Central Government or some higher authority, of the Governor General exercising his individual judgment ;

(b) in the case of a person who is employed in connection with the affairs of a Province and is not removable from his office save by or with the sanction of the Provincial Government or some higher authority, of the Governor of the Province exercising his individual judgment ;

(c) in the case of any other person, of the authority competent to remove him from his office.

XIV of 1860

7. Any person charged with an offence punishable under section 161 or section 165 of the Indian Penal Code or under sub-section (2) of section 5 of this Act shall be a competent witness for the defence and may give evidence on oath in disproof of the charges made against him or any person charged together with him at the same trial :

Accused
person
to be
competent
witness

Provided that—

(a) he shall not be called as a witness except on his own request ;

(b) his failure to give evidence shall not be made the subject of any comment by the prosecution ;

(c) he shall not be asked, and if asked shall not be required to answer, any question tending to show that he has committed or been convicted of any offence other than the offence with which he is charged, or is of bad character, unless—

(i) the proof that he has committed or been convicted of such offence is admissible evidence to show that he is guilty of the offence with which he is charged, or

(ii) he has personally or by his pleader asked questions of any witness for the prosecution with a view to establish his own good character, or has given evidence of his good character, or the nature or conduct of the defence is such as to involve imputations on the character of the prosecutor or of any witness for the prosecution, or

(iii) he has given evidence against any other person charged with the same offence.

STATEMENT OF OBJECTS AND REASONS

The scope for bribery and corruption of public servants had been enormously increased by war conditions and though the war is now over, opportunities for corrupt practices will remain for a considerable time to come. Contracts are being terminated; large amounts of Government surplus stores are being disposed of; there will be, for some years, the shortages of various kinds requiring the imposition of controls and extensive schemes of post-war reconstruction, involving the disbursement of very large sums of Government money, have been and are being elaborated. All these activities offer wide scope for corrupt practices and the seriousness of the evil and the possibility of its continuance or extension in the future are such as to justify immediate and drastic action to stamp it out.

The existing law has proved inadequate for dealing with the problem which has arisen in recent years and the Bill is intended to render the criminal law more effective in dealing with cases of bribery and corruption of public servants.

V. J. PATEL

NEW DELHI;

The 26th October, 1946.

M. N. KAUL,

Secy. to the Govt. of India